

## **Tippecanoe County Rules of Family Law**

### ***PREAMBLE***

These local rules have been enacted to help effectuate a dignified and effective means of resolving all family law disputes, but especially those disputes involving minor children. While recognizing our adversarial system for resolving family law problems, these local rules mandate that attorneys not ignore but embrace their equally important roles as negotiators and advisors and their special responsibility for the quality of justice.

These local rules are based upon the Lake County Rules of Family Law. The Lake County Rules contain extensive commentary which is incorporated herein by reference. The Judges of Tippecanoe County are grateful to Charlie Asher for advocating the philosophy of Cooperative Divorce and developing the websites incorporated into these rules.

LR 79-FL00-1. Scope, Citation, and Definition, Cooperative Approach and Liberal Construction.

A. Scope. These rules shall apply to family cases in the Tippecanoe Circuit Court and all the Superior Courts, I, II, III, IV, V, and VI of Tippecanoe County.

B. Citation. These rules may be cited as the Tippecanoe County Rules of Family Law and abbreviated as F. L. R.

C. Definition. Family cases shall include all cases involving claims for or related to marital dissolution or separation, paternity, child custody, parenting time or visitation with a child, and support of a child or spouse.

LR 79-FL00-2. Statement of Policy and Purpose.

**The Circuit and Superior Courts of Tippecanoe County are committed to a cooperative model for the handling of family cases by parents, attorneys, and judges.** These rules shall be liberally construed and applied to serve the healthy and child-sensitive functioning of families. In all family cases with children, the goal will be protecting the best interests of those children.

LR 79-FL00-3. General Obligations of Cooperation of Attorneys and Parties.

A. Attorneys and parties in family cases are expected to act with the courts as co-problem solvers, not mere problem-reporters. Attorneys shall both inform and remind their clients about the judicial expectations of cooperation in family cases, assist their clients to understand and observe these standards, and encourage clients to participate in co-parenting classes, counseling, mediation, and other appropriate problem-solving processes.

B. To establish and maintain an atmosphere which fosters cooperative problem-solving, all parties and attorneys shall:

- (1) explore resources which may reduce conflict, build cooperation, and protect children;
- (2) attempt reasonable cooperative measures before resorting to the court;
- (3) avoid disrespectful language and behavior; and,
- (4) avoid unnecessary motions or petitions, hearing and arguments.

LR 79-FL00-4. Initial and Provisional Hearings.

Unless considerations of safety or other good cause make it unreasonable, before the date and time set for an initial or provisional hearing, counsel shall meet with each other (or any unrepresented party) in a good-faith attempt to resolve all matters.

LR 79-FL00-5. Mandatory Website Work for Parents.

A. Dissolution of Marriage. In all dissolution cases where the parties have any children together under the age of 18, both parties shall complete the work on [www.UpToParents.org](http://www.UpToParents.org) within 30 days of initial filing.

B. Legal Separation. In all separation cases where the parties have any children together under the age of 18, both parties shall complete the work on [www.WhileWeHeal.org](http://www.WhileWeHeal.org) within 30 days of initial filing.

C. Paternity. In all paternity cases, both parents shall complete the work on [www.ProudToParent.org](http://www.ProudToParent.org) within 30 days of the court's finding of paternity.

D. Following completion of the website work required by this rule, the parents shall merge or exchange their chosen Commitments from their website work.

LR 79-FL00-6. Co-Parenting Class.

A. Dissolution of Marriage and Legal Separation. Mandatory Attendance. In all dissolution and separation cases where the parties have any children together under the age of 18, both parties shall complete a co-parenting class. The court may order both parties to attend additional co-parenting classes in post-decree matters.

B. Paternity. In all paternity cases the court may order the parties to attend and complete a co-parenting class.

LR 79-FL00-7. Proof of Compliance.

A. Dissolution of Marriage and Legal Separation. To monitor compliance, within 60 days of the initial filing of an action for dissolution or separation, each party shall file a verified certification of their completion of the mandatory website work as required under FLR. 5, above, and of any mandatory co-parenting class as required under FLR. 6, above, a sample form of which is attached hereto as Appendix “A”.

B. Paternity. To monitor compliance, within 45 days of the court’s finding of paternity, each party shall file a verified certification of completion of the mandatory website work as required under FLR 5, above. A sample form is attached hereto as Appendix “B”.

C. Any party failing to timely file such a certification may be subject to a hearing on such a failure.

LR 79-FL00-8. Parenting Plan Proposals.

A. The Indiana Parenting Time Guidelines provide useful outlines of the **minimum** time each parent should have with the children to maintain frequent, meaningful, and continuing contact with them. Any parenting time plan submitted by agreement that provides for less than the **minimum** time allowed under the Indiana Parenting Time Guidelines must contain a written explanation for deviating from those guidelines. Agreed parenting plans that exceed the **minimum** time allowed under the Guidelines will not require a written explanation.

B. Unless they have already executed an agreed parenting plan, the parties shall each prepare and exchange their written Parenting Plan Proposals utilizing the form which is attached hereto as Appendix “C”. Parents, personally and with the help of counsel and all useful counseling, mediation and other problem-solving resources, shall continue to attempt to reach an agreed parenting plan. Parents shall bring their respective Parenting Plan Proposals to all hearings, mediation sessions, and settlement discussions.

LR 79-FL00-9. Protocols After Initial Filing.

A. Duties Regarding Consultation. Except in emergencies or when it might create a danger or substantial prejudice or is otherwise unreasonable to do so, counsel and pro se parties shall have a personal or telephonic consultation to resolve any issue before filing or seeking any other relief through the court. Counsel and pro se parties contacted for a consultation shall make themselves reasonably available for consultation. The duty of consultation shall be continuing.

B. Substance of Consultation. In the consultation, counsel and pro se parties shall:

- (1) attempt to resolve all matters at issue;
- (2) confirm the parties’ compliance with FLR 5, FLR 6, FLR 7 and FLR 8;  
and,
- (3) discuss the resources they believe the parents could use to resolve current and future issues and to build cooperation.

C. Cooperation Update - Mandatory. All motions and pleadings other than the initial filings shall include a statement confirming compliance with items (1) through (3), above, including the date of the required personal or telephonic consultation; or, shall recite the specific reasons for the lack of a consultation.

D. Parents shall review and bring a copy of their website Commitments, as required by FLR 5 and the current Parenting Plan Proposals, as required by FLR 8, to every hearing.

#### LR 79-FL00-10. Requirements before Custody Evaluations.

All requests for custody evaluations must be (1) in writing (2) certify that both parties and their counsel, if any, have engaged in at least one good faith attempt to resolve the issues through the use of a settlement conference or mediation.

The court will not grant a request for or otherwise order a custody evaluation except following a Status Conference in the presence of both parties and their attorneys, if any, during which the court has been satisfied that:

- A. both parties have completed the mandatory website work pursuant to FLR 5, above; and,
- B. both parents have completed any required co-parenting class pursuant to FLR 6, above; and,
- C. both parties have exchanged Parenting Plan Proposals pursuant to FLR 8, above; and,
- D. both parties and their attorneys, if any, have engaged in at least one good faith attempt to resolve the issues through the use of a settlement conference or consultation pursuant to FLR 9, above; and,
- E. the court has carefully considered and reviewed, with both parties and their attorneys, if any, the use of other resources.

#### LR 79-FL00-11. Case Captioning.

Parties in dissolution, separation, and paternity cases shall not be captioned or designated as “petitioner”, “respondent”, “plaintiff”, or “defendant”. The parties shall be designated as “Mother”, “Father”, “Husband”, or “Wife”, “Former Husband”, “Former Wife”, and “Putative Father”. All captions shall comply with applicable statutes and case law.

#### LR 79-FL00-12. Form of Summons.

Parties in dissolution, separation, and paternity cases shall prepare and utilize forms of summons as set forth herein.

A. Dissolution of Marriage and Legal Separation. In dissolution and separation cases, the appropriate summons shall be used and shall be substantially the same as the form(s) which attached hereto as Appendix “D” and “D-1”.

B. Paternity. In paternity cases, the summons shall be substantially the same as the form which is attached hereto as Appendix “E”.

#### LR 79-FL00-13. Judges’ Notice.

Whenever the initial filing is prepared by an attorney, the attorney shall also prepare and provide the client and the Clerk with a sufficient number of copies of the appropriate the Judges’ Notice as required herein. In cases filed by pro se parties, the Clerk shall provide the appropriate Judges’ Notice. The Judges’ Notice To Parents Going Through Divorce is attached as Appendix “F” and Judges’ Notice To Parents In Paternity Cases is attached as Appendix “G”.

#### LR 79-FL00-14. Financial Declaration Form.

A. Requirement. In all relevant cases including dissolutions, separation, paternity, post-decree, or support proceedings and, irrespective of which court, each party shall prepare and exchange, within 60 days of initial filing for dissolution or separation or within 30 days of filing of any paternity or post-decree matters, the appropriate Financial Declaration Form (see Appendix “H” and “I”). These time limits may be extended or shortened by court order for good cause shown. In those cases where there is service, but no appearance by counsel, it is the responsibility of the initiating party to provide the other party with the appropriate blank Form and to notify that party of the duty to prepare and serve the same.

B. Exceptions. The Form need not be exchanged if:

- (1) the parties agree in writing within 60 days of the initial filing to waive exchange;
- (2) the parties have executed a written agreement which settles all financial issues;
- (3) the proceeding is merely at a provisional or emergency relief stage;
- (4) the proceeding is one in which the service is by publication and there is no response; or,
- (5) the proceeding is post-decree and concerns issues without financial implications.

Provided, however, when the proceeding is post-decree and concerns an arrearage, the alleged delinquent party shall complete the entire Form, while the support recipient need complete merely the portion thereof which requires specification of the basis of the arrearage calculation (with appropriate supporting documentation).

C. Use at Trial. The Forms are intended primarily as mandatory discovery though, subject to appropriate objection, they shall be admissible at the request of any party. Therefore, particularly in view of the presumptive nature of the Indiana Child Support Guidelines, direct examination on form data shall address only unusual factors which require explanation or corrections and shall not, particularly with respect to issues of support, be routinely permitted. For evidentiary purposes, the pages of the Form shall be deemed severable.

D. Supporting documents. For the purposes of providing a full and complete verification of assets, liabilities, and values, each party shall attach to the form all information reasonably required and reasonably available. This shall include recent bills, wage and tax records, and bank, pension and year-end mortgage statements. "Reasonably available" means that material that may be obtained by letter accompanied with an authorization, but does not mean material that must be subpoenaed or is in the possession of the other party. Appraisals of real estate and pensions, or appraisals of personal property such as jewelry, antiques, or special collections (stamps, coins, or guns, for example) are not required. However, once an appraisal is obtained, it must be exchanged unless the appraisal was obtained in accordance with the provisions of LRial Rule 26(B) (4) (b) and is not expected to be utilized during LRial. Moreover, the court may direct that an appraisal be obtained just as it may designate the appraiser.

E. Privacy - Sealing of Forms. Whenever the interest of privacy so requires, the court may, upon motion, direct the admitted Forms sealed until further order. However, such requests shall not be made as a matter of course.

When ordered sealed, the Court Reporter shall place the Forms in a flat manner in an envelope of sufficient size, seal the envelope, and affix a copy of the order. Forms may be withdrawn at the conclusion of the case on such terms as the court allows.

F. Financial Declaration Form as Mandatory Discovery. The exchange of Forms constitutes mandatory discovery. Thus, Indiana Rules of Procedure, Trial Rule 37 sanctions apply. Additionally, pursuant to Trial Rule 26(E) (2) and (3), the Form shall be supplemented if additional material becomes available. Further, any additional discovery, such as a motion to produce, interrogatories, or depositions of the parties shall not commence until the Forms are exchanged and, once exchanged, shall not seek information already obtained.

LR 79-FL00-15. Indiana Child Support Guidelines.

A. Worksheet Required. In all proceedings involving child support, each party shall file with any settlement or enter into evidence during any Trial Indiana Child Support Guidelines Worksheets - one or more depending upon the facts. Further, the Worksheet(s) shall, when reasonably possible, be delivered to the other parent simultaneously with the Financial Declaration Form, but, in any event, within 10 days of receiving the other parent's Form. The Worksheets shall be promptly supplemented if any changes occur prior to resolution. All Worksheets shall be signed by the party(ies) submitting the Worksheet.

B. Support Settlement Agreements. If an agreement concerning support provides any deviation from the amount calculated under the Indiana Child Support Guidelines, the parents shall present the court with a written explanation justifying the deviation.

LR 79-FL00-16. Preparation of Orders.

A. Exchange. It shall be the duty of the parties' attorneys to prepare decrees and other orders as directed by the court. The attorney so directed is first to submit them to all other attorneys of record or to the unrepresented party to enable them to challenge any provision thereof before submission to the court for entry.

B. Additions. If the preparing attorney believes the other attorney or the other party, if the other party is proceeding pro se, is unreasonably withholding approval as to form, or if either believes the other is attempting to make additions not addressed by the court, either may submit a proposed form to the court and shall attach thereto a written explanation of the dispute. The other party shall have 7 days to respond before the court enters any order. The court may enter sanctions against a party who has unreasonably withheld approval or attempted to make additions not addressed by the court.

C. Signatures. The signature line for counsel or pro se litigant shall indicate Approved As To Form. Such signature indicates that the order correctly reflects the court's ruling. It does not necessarily signify that the signing party or attorney agrees with the ruling.

LR 79-FL00-17. Sanctions.

If a party or counsel fails to timely prepare, exchange or file a Financial Declaration Form or Child Support Worksheet or to cooperate in providing information therefore in a timely manner, either is subject to sanctions under Trial Rule 37.

LR 79-FL00-18. Attorney Fee Requests.

A. Affidavits. When attorney fees (except those sought provisionally) are requested from the opposing party, the requesting attorney shall submit an appropriate affidavit, which, if the affidavit comports with these rules, the court shall admit as an exhibit.

B. Content. The affidavit shall indicate the:

- (1) requested fee and the basis thereof;
- (2) amounts counsel has billed, contracted for, or been promised; and,
- (3) amount counsel has received from all sources.

A copy of the written fee contract, if any, shall be attached to the affidavit and deemed a part thereof. Opposing counsel may cross examine the requesting attorney as to any of the submitted material.

LR 79-FL00-19. Agreed Matters - Submission.

No agreed matter shall be submitted unless accompanied with a signed agreement, and other appropriate documents, such as the decree, a wage withholding order, or a qualified domestic relations order. However, if the parties reach a settlement on the courthouse steps, then the court shall accept evidence of that settlement on the record, and enter the appropriate order upon preparation and filing by counsel within 21 days after submission, or such additional time as the court may allow.

LR 79-FL00-20. Orders Excluding Parent from the Residence.

In all instances where emergency or extraordinary relief is requested including, but not limited to, excluding a parent from the residence, the court shall require full compliance with the provisions of Trial Rules 65(B) and 65(E). In situations involving allegations of physical abuse, intimidation or stalking, relief may be sought by a separate filing for an Order of Protection.



## **Index to Appendices**

Certificate of Compliance in Dissolution Cases	Appendix A
Certificate of Compliance in Paternity Cases	Appendix B
Parenting Plan Proposal	Appendix C
Summons and Notice of Hearing in Proceedings of Dissolution of Marriage	Appendix D
Summons in Proceedings for Dissolution of Marriage	Appendix D-1
Summons and Notice of Initial Hearing in a Paternity Case	Appendix E
Judges' Notice to Parents Going Through Divorce	Appendix F
Judges' Notice to Parents In Paternity Cases	Appendix G
Financial Declaration Form: Dissolution of Marriage	Appendix H
Financial Declaration Form: Paternity and Post-Decree	Appendix I